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C O N F I D E N T I A L SECTION 01 OF 02 SARAJEVO 000151

SIPDIS

DEPARTMENT FOR EUR(JONES), EUR/SCE(FOOKS/STINCHOMB); NSC
FOR HELGERSON/WILSON

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TAGS: [PGOV](#) [PINR](#) [PREL](#) [KDEM](#) [BK](#)

SUBJECT: BOSNIA - DODIK AGREES TO TEXT OF A BRCKO AMENDMENT

REF: A. A. SARAJEVO 134

[1](#)B. B. SARAJEVO 107

[1](#)C. C. SARAJEVO 70

[1](#)D. D. 08 SARAJEVO 1655

Classified By: Ambassador Charles English. Reasons 1.4(b) and (d).

Doboj Talks on Brcko

[1](#)1. (U) The Ambassador and PDHR/Supervisor Gregorian met with Republika Srpska (RS) PM Milorad Dodik on February 5 in Doboj to discuss the text of a proposed constitutional amendment on Brcko. An amendment that codifies Brcko's status in the constitution and provides Brcko with direct access to the BiH Constitutional Court is required as part of the Peace Implementation Council's (PIC) so-called "5-plus-2" agenda for closure of OHR. Dodik was accompanied by two of his advisors: Slavko Mitrovic and Gordan Milosevic.

[1](#)2. (U) Dodik and his Prud counterparts, Party of Democratic Action (SDA) President Sulejman Tihic and Croatian Democratic Union-BiH (HDZ-BiH) President Dragan Covic publicly endorsed the passage of a constitutional amendment and drafted a text at their January 26 meeting in Banja Luka (Ref B). Several elements of the January 26 text were problematic, however (Ref A), and the aim of the February 5 negotiation was to resolve them. Prior to the meeting, PDHR Gregorian spoke with Tihic and Covic to brief them on OHR/USG concerns about the January 26 text and advise them of the Doboj talks.

Text of the Revised Brcko Amendment

[1](#)3. (U) Though long, the Doboj talks produced an agreement on the text of an amendment that addressed all outstanding technical concerns of OHR and the USG. The following text also contains a compromise proposal offered by Dodik regarding the so-called "constituent peoples" language in paragraph three (Ref A). The full text of the agreed-upon amendment -- which was signed by PDHR Gregorian, the Ambassador, and RS PM Dodik -- follows:

BEGIN TEXT:

"The Brcko District of Bosnia and Herzegovina, which exists under the sovereignty of Bosnia and Herzegovina and is subject to the responsibilities of the institutions of Bosnia and Herzegovina as those responsibilities derived from this Constitution, whose territory is held in condominium by the Entities, is a unit of local self-government with its own institutions, laws and regulations, and with powers and status definitively prescribed by the awards of the Arbitral

Tribunal for the Dispute over the Inter-Entity Boundary in the Brcko Area. The relationship between the Brcko District of Bosnia and Herzegovina and the institutions of Bosnia and Herzegovina and the Entities may be further regulated by law adopted by the Parliamentary Assembly.

The Constitutional Court of Bosnia and Herzegovina shall have jurisdiction to decide in any dispute relating to the protection of the determined status and powers of the Brcko District of Bosnia and Herzegovina that may arise between an Entity or more Entities and the Brcko District of Bosnia and Herzegovina or between Bosnia and Herzegovina and the Brcko District of Bosnia and Herzegovina under this Constitution and the awards of the Arbitral Tribunal.

Any such dispute may also be referred by a majority of the councilors of the Assembly of the Brcko District of Bosnia and Herzegovina including at least one-fifth of the elected councilors from among each of the constituent peoples."

END TEXT

Comment and Next Steps

14. (C) The agreement is a welcome and critical step towards securing an outcome on Brcko that meets the PIC's 5-plus-2 requirements. Our challenge now will be ensuring the amendments' passage by Bosnia's Parliamentary Assembly. OHR plans to work with members of the House of Peoples to secure a formal proponent for the amendment, a necessary first step.

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At the same time, we and OHR will begin reaching out to other party leaders and individual MPs about supporting the amendment. Though we expect Haris Silajdzic and his Party for BiH (SBiH) to oppose the amendment, if the other major parties and some of the smaller parties support it, the amendment will have the two-thirds majority required to pass.
ENGLISH